



PUBLIC NOTICE

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Actions Taken Under Cable Landing License Act

Section 1.767(a) Cable Landing Licenses, Modifications, and Assignments or Transfers of Control of Interests in Cable Landing Licenses (47 C.F.R. § 1.767(a))

By the Chief, Telecommunications and Analysis Division, International Bureau:

Pursuant to an Act relating to the landing and operation of submarine cables in the United States, 47 U.S.C. §§ 34-39 (Cable Landing License Act), Executive Order No. 10530, Exec. Ord. No. 10530 reprinted as amended in 3 U.S.C. § 301, and section 1.767 of the Commission's rules, 47 CFR § 1.767, the following applications ARE GRANTED. These grants of authority are taken under section 0.261 of the Commission's rules, 47 CFR § 0.261. Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 CFR §§ 1.106, 1.115, may be filed within 30 days of the date of this public notice.

These applications have been coordinated with the Department of State and other Executive Branch agencies pursuant to section 1.767(b) of the Commission's rules, 47 CFR § 1.767(b), and consistent with procedures established with the Department of State. See Review of Commission Consideration of Applications under the Cable Landing License Act, IB Docket No. 00-106, Report and Order, 16 FCC Rcd 22167, 22192-93, paras. 51-52 (2001) (Submarine Cable Landing License Report and Order); Commission Announces Department of State's Revised Procedures for its Consideration of Submarine Cable Landing License Applications, IB Docket No. 16-155, Public Notice, DA 22-435 (rel. Apr. 19, 2022).

This public notice serves as each cable landing licensee's Cable Landing License, or modification thereto, pursuant to the Cable Landing License Act and sections 1.767 and 1.768 of the Commission's rules. Cable landing licensees should review the terms and conditions of their licenses. Failure to comply with these terms and conditions or relevant Commission rules and policies could result in fines or forfeitures.

Submarine Cable Landing License

Grant of Authority

Date of Action: 07/14/2022

On October 13, 2021, an application was filed by PTI Pacifica Inc., dba IT&E (PTI Pacifica or Applicant) for a new cable landing license to allow the continued operation of the MTC Interisland Cable System (MICS) for an additional 25-year term following the expiration of the current license on February 13, 2022. Non-Streamlined Submarine Cable Landing License Applications, Accepted For Filing, Report No. SCL-00338NS, Public Notice (IB rel. Oct. 22, 2021). No comments were filed in response to the public notice.

On February 17, 2022, the International Bureau (Bureau) granted PTI Pacifica special temporary authority (STA) to continue operation of MICS while the Commission considered the underlying application for another 25-year term for the cable landing license. PTI Pacifica acknowledged that grant of the STA was non-prejudicial to action by the Commission on the underlying application, and that the STA is subject to cancellation or modification upon notice without a hearing. See SCL-STA-20220113-00002, Actions Taken Under Cable Landing License Act, Report No. SCL-0036, Public Notice, DA 22-165 (IB rel. Feb. 17, 2022).

The MICS cable is 100% owned and controlled by PTI Pacifica, the sole licensee of the cable system. MICS is a common carrier fiber-optic submarine cable system that connects three islands of the Commonwealth of the Northern Mariana Islands (CNMI) - Saipan, Tinian, and Rota - with each other and to Guam. The MICS cable was originally licensed in 1993 and commenced service on February 13, 1997. See File No. SCL-LIC-19921015-00007 (previous File No. SCL-92-003), Cable Landing License, 8 FCC Rcd 748 (CCB 1993).

PTI Pacifica requests an additional 25-year term for the continued operation of the MICS cable and requests that the Commission change the regulatory classification of MICS from common carrier to non-common carrier. PTI Pacifica states that the license renewal will permit the continued operation of an upgraded cable that provides telecommunications, video, and broadband internet connectivity services to its customers and other providers of telecommunications services between Guam and CNMI. PTI Pacifica adds that the MICS cable provides a competitive alternative to the Atisa submarine cable system that serves the same routes in the region. PTI Pacifica states that MICS is essential to continue to provide broadband growth and diversity to CNMI's remote regions to support economic growth, education, health, safety, and emergency services in those regions. The Applicant further states that the Federal government depends on this facility to transport interisland communications in support of military and other national security operations.

The Application has been coordinated with the Department of State as required by Executive Order 10530, pursuant to section 1.767(b) of the Commission's rules, and consistent with the established Department of State procedures. Executive Order 10530, Section 5(a) reprinted as amended in 3 U.S.C. § 301; 47 CFR § 1.767(b); Review of Commission Consideration of Applications under the Cable Landing License Act, IB Docket No. 00-106, Report and Order, 16 FCC Rcd 22167, 22192-93, paras. 51-52 (2001); Commission Announces Department of State's Revised Procedures for its Consideration of Submarine Cable Landing License Applications, IB Docket No. 16-155, Public Notice, DA 22-435 (rel. Apr. 19, 2022). On October 25, 2021, the Department of Justice (DOJ), on behalf of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) filed a letter asking the Commission to defer action pending Committee review. On June 28, 2022, the National Telecommunications and Information Administration (NTIA), on behalf of the Committee, filed a Petition to Adopt Conditions to Authorization and License (Petition). In the Petition, the Committee states it has no objection to the Commission granting the Application, provided that the Commission conditions its approval on the assurances of PTI Pacifica to abide by the commitments and undertakings set forth in the June 10, 2022 Letter of Agreement from PTI Pacifica to the Department of Homeland Security and the Department of Defense.

Actions Taken: We grant: (1) a Cable Landing License to PTI Pacifica for the purpose of landing and operating a non-common carrier fiber-optic submarine cable system, the MICS, that connects three islands of the Commonwealth of the Northern Mariana Islands - Saipan, Tinian, and Rota - with each other and to Guam; (2) the reclassification of the cable system to a non-common carrier system; (3) a waiver of section 1.767(h)(1) of the Commission's rules in connection with the license; and (4) the Petition filed by NTIA.

Licensee Information: PTI Pacifica, a CNMI company, is ultimately owned and controlled, on a majority basis (53.99%), by Ricardo C. Delgado, a Philippine investor. The ten percent or greater direct and indirect interest holders in PTI Pacifica are: (1) The Micronesian Telecommunications Corporation (MTC), a CNMI company (100% equity and voting); (2) Pacific Telecom Inc., a CNMI company (100% equity and voting in MTC); (3) Prospector Pacific Investments Inc. (PPI), a CNMI company (85% equity and voting in Pacific Telecom Inc.); (4) SK Telecom Co. Ltd., a South Korea company (15% equity and voting in Pacific Telecom Inc.); (5) Citadel Pacific Ltd. (Citadel Pacific), a Cayman Islands company (100% equity and voting in PPI); (6) Ricardo C. Delgado, a citizen of the Philippines (53.99% equity and voting in Citadel Pacific); (7) Jose Ricardo Delgado, a citizen of the Philippines (36.25% equity and voting in Citadel Pacific); (8) Classroom Investments Inc., a Canadian company (9.76% equity and voting in Citadel Pacific); and (9) Ontario Teachers' Pension Plan, a Canadian entity (100% equity and voting in Classroom Investments Inc.).

Cable Design and Capacity: MICS consists of three segments: Segment 1 connects a cable landing station at Tanguisson, Guam to the Sinapalo, Rota cable landing station; Segment 2 connects the Sinapalo, Rota cable landing station to the San Jose, Tinian cable landing station, and Segment 3 connects the San Jose, Tinian cable landing station to the Susupe, Saipan cable landing station. The system is repeaterless and all optical fiber driving equipment is located ashore at the cable stations.

MICS consists of 6 fiber pairs on each segment, with a current system design capacity of 150 gigabits per second (Gbps). The cable system is approximately 166.3 miles in length and its capacity has been upgraded three times since being placed in service in 1997.

Landing Points and Ownership: The ownership and control of the cable landing stations are as follows: (1) PTI Pacifica will continue to retain operational authority over the cable landing station located at Tanguisson, Guam that is owned by AT&T Corp.; (2) PTI Pacifica will continue to own and operate the cable landing station located at Sinapalo, Rota; (3) PTI Pacifica will continue to own and operate the cable landing station located at San Jose, Tinian; and (4) PTI Pacifica will continue to own and operate the cable landing station located at Susupe, Saipan.

— The Applicant requests a waiver of 1.767 (h)(1) of the Commission's rules, so that AT&T need not be a joint applicant for the renewal application. 47 CFR 1.767(h)(1). Section 1.767(h)(1) requires that "[a]ny entity that owns or controls a cable landing station in the United States" shall be an "applicant[] for, and licensee[] on, a cable landing license...." 47 CFR § 1.767(h)(1). PTI Pacifica states that AT&T Corp. will have no ability to affect significantly the operation of MICS, and that inclusion of AT&T Corp. as a joint applicant is not necessary to ensure compliance by the Applicant with the Cable Landing License Act, the Commission's cable landing license rules, or the terms of the cable landing license. According to the Applicant, PTI Pacifica and AT&T Corp. have an existing agreement that provides PTI Pacifica with a long-term lease for collocation space in the cable landing station for which PTI Pacifica has exclusive access and control. The term of the leasehold expires when MICS is retired from service.

The purpose of the 1.767(h)(1) requirement is to ensure that entities having a significant ability to affect the operation of the cable system become licensees and become subject to the conditions and responsibilities associated with the license. See Submarine Cable Landing License Report and Order, 16 FCC Rcd at 22194-95, paras. 53-54. Although AT&T is the owner of the Tanguisson, Guam cable landing station, we find that, based on the agreement between the PTI Pacifica and AT&T, the cable station owner described above, AT&T will not have the ability to affect significantly the operation of the cable system. Accordingly, we grant the Applicant a waiver of 1.767(h)(1) and we do not require AT&T to be a licensee for the MICS cable. 47 CFR 1.767(h)(1).

Regulatory Status of the Cable: The Applicant proposes to operate the cable system on a non-common carrier basis and requests that the Commission change the regulatory classification of MICS from common carrier to non-common carrier. PTI Pacifica asserts that MICS is not a bottleneck and that there are other routing options and competitive alternatives for interisland traffic. Specifically, PTI Pacifica states that non-common carrier status is appropriate because the Atisa submarine cable system, owned by a competitor, provides service to each of the same islands as MICS - Saipan, Tinian, Rota, and Guam - and is operated on a non-common carrier basis. Further, Applicant states that it intends to use the capacity for backhaul of its own wireless traffic and to provide services to enterprise, government customers, and other carriers pursuant to individually negotiated rates, terms, and conditions tailored to their particular needs.

The Applicant has provided information and demonstrated that the proposed operation of the cable on a non-common carrier basis satisfies the requirements set forth in *National Association of Regulatory Utility Commissioners v. FCC*. *National Association of Regulatory Utility Commissioners v. FCC*, 525 F.2d 630, 642 (D.C. Cir 1976) (NARUC I), cert. denied, 425 U.S. 992 (1976); see also Submarine Cable Landing License Report and Order, 16 FCC Rcd at 22202-22203, paras. 69-70; Review of Commission Consideration of Applications under the Cable Landing License Act, IB Docket No. 00-106, Notice of Proposed Rulemaking, 15 FCC Rcd 20789, 20815-20818, paras. 62-67. Accordingly, we grant the Applicant's request to change the regulatory classification of MICS from common carrier to non-common carrier.

Conditions and Requirements: PTI Pacifica will comply with the routine conditions set out in section 1.767(g) and with the requirements of section 1.768 of the Commission's rules. 47 CFR §§1.767(g), 1.768 (Notification by and prior approval for submarine cable landing licenses that are or propose to become affiliated with a foreign carrier).

We grant the Petition filed in this proceeding on June 28, 2022 by NTIA, on behalf of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector. Accordingly, we condition grant of this Application on PTI Pacifica abiding by the commitments and undertakings contained in its Letter of Agreement with the Department of Homeland Security and the Department of Defense, dated June 10, 2022 (2022 LOA). The Petition and the 2022 LOA are publicly available and may be viewed on the FCC website through the International Bureau Filing System (IBFS) by searching SCL-LIC-20211013-00048 and accessing "Other filings related to this application" from the Document Viewing area.

A failure to comply and/or remain in compliance with any of these commitments and undertakings shall constitute a failure to meet a condition of the cable landing license and thus grounds for declaring the license terminated without further action on the part of the Commission. A failure to meet a condition of the license may also result in monetary sanctions or other enforcement action by the Commission.

License Term: Under the Commission's rules, a cable landing license shall expire 25 years after the in-service date for the cable. 47 CFR §1.767(g)(15). As MICS is already in-service, this license shall expire 25 years from the grant of the new license, July 15, 2047.
